

# ***City Council***

## ***Meeting Minutes***

**December 17, 2019**  
**City Hall, Council Chambers**  
**749 Main Street**  
**7:00 PM**

**Call to Order** – Mayor Stolzmann called the meeting to order at 7:00 p.m.

**Roll Call** was taken and the following members were present:

**City Council:**      ***Mayor Ashley Stolzmann***  
                             ***Mayor Pro Tem Dennis Maloney***  
                             ***Councilmember J. Caleb Dickinson***  
                             ***Councilmember Deborah Fahey***  
                             ***Councilmember Chris Leh***  
                             ***Councilmember Jeff Lipton***

**Staff Present:**      ***Heather Balser, City Manager***  
                             ***Megan Davis, Deputy City Manager***  
                             ***Megan Pierce, Economic Vitality Director***  
                             ***Kurt Kowar, Public Works Director***  
                             ***Meredyth Muth, City Clerk***

**Others Present:**    ***Melinda Culley, City Attorney***

### **PLEDGE OF ALLEGIANCE**

All rose for the pledge of allegiance.

### **APPROVAL OF AGENDA**

Mayor Stolzmann called for changes to the agenda and hearing none, Councilmember Lipton moved to approve the agenda, seconded by Mayor Pro Tem Maloney. All in favor.

### **PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA AND THE CONSENT AGENDA**

Chief John Willson, Louisville Fire District, gave his quarterly update from the Fire District. His holiday fire tip was for people to be safe with holiday decorations.

### **APPROVAL OF THE CONSENT AGENDA**

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Mayor Stolzmann called for a motion to approve the consent agenda.

MOTION: Councilmember Lipton moved to approve the consent agenda, seconded by Councilmember Dickinson. Mayor Stolzmann stated there were a number of good applicants for the board and commission vacancies. She thanked all for their interest and noted the meetings are open to anyone who wishes to attend.

Vote: All in favor.

- A. Approval of Bills**
- B. Approval of Minutes: November 25, 2019; December 3, 2019**
- C. Approval of January 14 as a Special Meeting**
- D. Approval of Contract for City Attorney Services**
- E. Approval of Resolution No. 51, Series 2019 – A Resolution Approving a Preservation and Restoration Grant for the Ball House Located at 1117 Jefferson**
- F. Approval of Resolution No. 52, Series 2019 – A Resolution Approving an Amendment to an Agreement with the Urban Drainage and Flood Control District D/B/A as Mile High Flood District for Drainage and Flood Control Improvements for Bullhead Gulch**
- G. Approval of Resolution No. 53, Series 2019 – A Resolution Approving the First Amendment to the Intergovernmental Agreement-Service Level and Funding Agreement for User Law Enforcement Agencies**
- H. Approval of Resolution No. 54, Series 2019 – A Resolution Approving a Master Agreement and Service Order with Markley Designs**
- I. Approval of Resolution No. 55, Series 2019 – A Resolution Amending the Membership of the Louisville Historical Commission**
- J. Approval of Resolution No. 56, Series 2019 – A Resolution Approving an Intergovernmental Agreement with Boulder County for Bus Stop Funding**
- K. Award Contract to Axe Roofing for Water Treatment Plant Hail Damage Corrective Repair**
- L. Approval of 2020 City Council Appointments to Boards and Commissions**

**COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA**

None.

**CITY MANAGER'S REPORT**

None.

## **REGULAR BUSINESS**

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### **APPOINTMENT OF WARD III COUNCILMEMBER**

Mayor Stolzmann stated the City Council seat was vacant due to her election as Mayor. She noted there were five great candidates and the choice was hard.

Mayor Pro Tem Maloney agreed that all 5 candidates were great and Louisville will be served well. He expressed appreciation to everyone who applied and endured the interview process.

Councilmember Dickinson stated the candidates are all great and it was a pleasure to interview them all.

#### **Public Comments**

RJ Harrington, 457 East Raintree Court, thanked all of the candidates. He stated the question on the application regarding sustainability should be reframed to focus on how we as a city can do at least a 50% reduction in greenhouse gases over the next decade. This appointment should be made through that lens. He added he would like the City to call on Xcel Energy to fully embrace these goals.

Mayor Pro Tem Maloney stated the questions were designed to see how well people understand the challenges facing Louisville. All candidates had solid answers but three rose to the top with more depth and detail. Through the deliberations one person stood out with answers with depth.

Mayor Pro Tem Maloney moved to appoint Kyle Brown as Ward III councilmember, Councilmember Leh seconded.

Councilmember Dickinson noted Angie Layton was a very strong candidate and he thanked her for her work and dedication to the community. He agreed with Mayor Pro Tem Maloney that Brown rose to a high level and he supports the motion.

Mayor Stolzmann agreed Brown had a great application and with 23 years living in town, he is attuned to the sustainability and economic vitality issues we are facing. Truly all candidates would have been excellent. She supported Brown.

Councilmember Fahey agreed it was a difficult decision; all candidates were exceptional.

Voice vote: all in favor.

**ORDINANCE NO. 1786, SERIES 2019 – AN ORDINANCE AMENDING THE  
LOUISVILLE MUNICIPAL CODE TO PROHIBIT THE SALE OF TOBACCO**

**PRODUCTS, INCLUDING ELECTRONIC SMOKING DEVICES, TO PERSONS UNDER THE AGE OF TWENTY-ONE – 2ND READING, PUBLIC HEARING (advertised *Daily Camera* 12/8/19)**

Mayor Stolzmann introduced the item and opened the public hearing.

Deputy City Manager Davis stated that in November Council directed staff to draft an ordinance to prohibit the sale of tobacco including vaping products to people under 21. She reviewed statistics showing Colorado's high rate of vaping, particularly among teens. She noted the State legislature recently gave cities the authority to regulate the sale of cigarettes, tobacco products, or nicotine products to minors. There is the ability for municipalities to enact licensing and fees and still collect the cigarette tax revenue they currently do. With voter approval, municipalities can impose a local tax, but then lose the apportioned state cigarette tax revenues. Counties can also impose a tax if voter approved. A flavor ban can also be imposed at the local level.

This ordinance only covers the age restrictions on sales to those 21 or older. Tobacco is defined to include any product made or derived from tobacco or nicotine intended to be consumed whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested, such as cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff or snus, any electronic smoking device, and any tobacco paraphernalia. It requires a retailer to display a sign indicating it is illegal to sell tobacco to those under 21.

Staff recommends approval of the ordinance as written.

Mayor Pro Tem Maloney asked if the legislature is looking at raising the age state-wide. Deputy City Manager Davis stated there is some discussion this might happen, but this ordinance would go into effect sooner. It appears Congress may take action at the Federal level as well, but the ordinance will address this sooner.

**Public Comment**

Ann Folgam, Thornton Resident, stated she is the owner of Elite Vapes in Thornton and Louisville. Have been here in town for four years. She stated she supports the ordinance and the 21 year age limit.

Brittany Carpenter, Boulder County Public Health (BCPH), stated they support this ordinance as increasing the sales age will have a positive impact on health in the community. Youth are using these products at high rates, either cigarettes or vaping. Early initiation is highly predictive of adult behavior. BCPH encourages licensing and enforcement. Licensing establishes accountability. BCPH is looking at options for the entire County and want consistent rules across the County.

**MOTION:** Mayor Pro Tem Maloney moved to approve Ordinance No. 1786, Series 2019; seconded by Councilmember Lipton.

Councilmember Dickinson stated his support and hoped the Council will look at the other issues in the future.

Mayor Stolzmann noted there is a problem in the schools with this and it says a lot that our business community is onboard with this change.

Mayor Stolzmann closed the public hearing.

**Vote:** Motion carried by unanimous roll call vote.

**RESOLUTION NO. 57. SERIES 2019 – A RESOLUTION APPROVING A BUSINESS ASSISTANCE AGREEMENT WITH FRESCA FOODS, INC. FOR AN ECONOMIC DEVELOPMENT PROJECT IN THE CITY OF LOUISVILLE**

Economic Vitality Director Pierce stated this is a Business Assistance Package (BAP) for Fresca Foods. Fresca Foods provides contract research and development and manufacturing services to the food manufacturing industry. They are creating two new production lines at one of their two facilities in Louisville. Fresca is performing about \$150,000 in tenant finishing costs to support the new production equipment.

Staff feels the project meets the following criteria: Retains jobs and employment opportunities, represents job diversity in industry sectors and is part of a growing industry, encourages the diversity of jobs or employment opportunities and conforms to the Comprehensive Plan.

The proposed assistance would be 50% rebate of City Building Permit Fees along with 50% rebate of Building Use taxes for a total of \$2,197.50 capped at \$2,500.

**Public Comments**

Mark Oberholzer, 224 Hoover Ave, stated as chair for the BRaD Committee the committee supports the use of this tool in general and learned at a recent retention visit Fresca Foods is growing rapidly and we should encourage them to do so in Louisville.

Councilmember Lipton moved to approve the Resolution No. 57, Series 2019, Councilmember Dickinson seconded.

Mayor Stolzmann felt this was a good assistance package and wished Fresca Foods well with their project.

Councilmember Leh stated he is impressed with the work Fresca is doing and exactly the kind of business we want in town and we want them to expand in Louisville.

Voice vote: all in favor.

**RESOLUTION NO. 58. SERIES 2019 – A RESOLUTION APPROVING A GRADE  
CROSSING SIGNAL INSTALLATION AGREEMENT WITH BNSF RAILWAY  
COMPANY**

Director Kowar stated this is an agreement with BNSF for the quiet zone crossing at Dillon Road. There are three other crossings still under review. The PUC told BNSF this had to be approved by December 31. He noted this is a small step in a long process. Staff recommends approval.

Public Comment – None.

City Manager Balser thanked staff and the City Attorney's office for their work on this. Every step is important and allows for consistent language on the coming agreements on the other crossings.

Councilmember Lipton asked what Council is approving tonight as there are still blanks to be completed. Director Kowar stated this is agreeing to the form of the agreement and after this there will be an easement and an updated cost estimate. All those blanks will get filled in.

Councilmember Lipton asked when costs are going to be finalized. Director Kowar stated now there is roughly \$3.3 million for the corridor and this location is nearly \$300,000. Costs could change with more current information.

Councilmember Lipton asked what the next steps will be. Director Kowar stated next steps are going to BNSF's construction group for scheduling. They may group them with other intersections and it will likely take a while before they are approved. The other three locations are still in legal review.

Councilmember Lipton asked when engineering and design will be approved. Director Kowar stated it is almost done at all locations but there is a disagreement at South Boulder Road.

City Attorney Culley stated the PUC issued an order requiring BNSF to get this agreement done this year. It was not a request of the City; the PUC took this action on their own. The hope is this will help move all of the project forward.

Mayor Pro Tem Maloney moved to approve the Resolution No. 58, Series 2019. Councilmember Lipton seconded.

Councilmember Lipton wanted clarification on whether the approval was for the form of the agreement.

City Attorney Culley stated the Resolution approves the form of the agreement but gives staff some flexibility to add terms. Director Kowar stated he does not expect the language to change and staff is comfortable with the resolution.

Voice vote: all in favor.

## **2020 CONTRACT FOR WATER ATTORNEY SERVICES WITH HILL & POLLOCK, LLC**

### **2020 CONTRACT FOR CITY PROSECUTOR SERVICES WITH CRIBARI LAW FIRM**

Councilmember Leh stated the Council appoints four people directly: the City Manager, the Judge (and deputy judges), the Water Attorney, the City Attorney, and the Prosecuting Attorney. This past year Council has evaluated the people in these positions.

The Legal Committee recommends retaining the Water Attorney for two years with a slight increase in their rate.

The Legal Committee also recommends retaining the Prosecuting Attorney for two years with a slight increase in rate. The Committee feels this price is consistent with the market.

Public Comments – None.

Councilmember Lipton motioned to approve the contract for Water Attorney with Hill & Pollock LLC; Councilmember Fahey seconded.

Water attorney – voice vote all in favor.

Councilmember Lipton moved to approve Prosecuting Attorney contract with Cribari Law Firm; Councilmember Fahey seconded.

Prosecuting Attorney voice vote all in favor

## **RESOLUTION NO. 59, SERIES 2019 – A RESOLUTION SETTING THE COMPENSATION OF THE DEPUTY MUNICIPAL JUDGE**

Councilmember Leh noted the Legal Committee looked at the compensation rates for this position and found it very low for the market. The existing rate is much lower than other jurisdictions and will make the position hard to fill.

Public Comments – None.

Councilmember Lipton moved to approve Resolution No. 59, Series 2019; Councilmember Fahey seconded.

Voice vote: all in favor.

**DISCUSSION/DIRECTION/ACTION – PROCESS FOR FILLING MUNICIPAL JUDGE VACANCY**

Councilmember Leh stated the municipal judge position has been vacant since October with the resignation of Judge Wheeler. Judge Thrower is currently the Acting Municipal Judge through February. The Legal Committee recommends sending out a request for applications in January with the Legal Committee reviewing applications and interviewing in February with a proposal to Council in April. To accomplish all of that, he recommended extending Judge Thrower as Acting Municipal Judge until the end of April.

This process would be used to fill the Presiding Judge position and two Deputy Judges to be available to fill in as needed.

Public Comments – None.

Councilmember Lipton stated filling these positions is important and he thanked Judge Thrower for helping us get through this appointment process. He thinks the proposal has a lot of integrity.

Mayor Pro Tem Maloney moved to approve the process for filling the municipal judge position as proposed; Councilmember Lipton seconded.

Voice vote: all in favor.

**ORDINANCE NO. 1787, SERIES 2019 – AN ORDINANCE AMENDING THE CENTENNIAL VALLEY GENERAL DEVELOPMENT PLAN (GDP) CONCERNING ALLOWED USES AND DENSITIES FOR LOTS 2 AND 3, CENTENNIAL VALLEY PARCEL O, 7TH FILING – 1ST READING, SET PUBLIC HEARING 1/7/20**

City Attorney Culley introduced the item by title. Councilmember Lipton moved to approve the ordinance on first reading and set the public hearing for 1/7/20; Councilmember Fahey seconded. All in favor.

**ORDINANCE NO. 1788, SERIES 2019 – AN ORDINANCE AMENDING CHAPTER 2.12 OF THE LOUISVILLE MUNICIPAL CODE TO INCREASE THE SALARY OF THE PRESIDING MUNICIPAL JUDGE – 1ST READING, SET PUBLIC HEARING 1/7/20**

City Attorney Culley introduced the item by title. Councilmember Lipton moved to approve the ordinance on first reading and set the public hearing for 1/7/20; Councilmember Fahey seconded. All in favor.

**CITY ATTORNEY'S REPORT**

No report.



## **COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS**

Economic Vitality Committee – no meeting.

Finance Committee – Mayor Pro Tem Maloney reported they looked at an IT security plan, discussed a cigarette tax noting it might be a marginal rise in revenue, and reviewed budget calendar and the 2020 work plan.

Legal Review Committee – Councilmember Leh would like comparative information on municipal judge salaries for second reading. He suggested a back-up prosecutor.

Utility Committee – no meeting

CC4CA – Councilmember Fahey noted they had a phone meeting concerning updated work plan and items going forward.

Commuting Solutions – Councilmember Leh had nothing to report from quarterly meeting.

Consortium of Cities – Councilmember Dickinson noted they met and discussed tobacco options and raising minimum wage in Boulder County.

DBA Street Faire – Councilmember Lipton said the committee continues to plan for the Faire and are booking bands for the summer and working on logistics and marketing.

DRCOG – Mayor Stolzmann attend DRCOG meeting tomorrow night for Transportation Improvement Program amendments and climate action plan efforts for Denver Region and Metro Vision Regional Transportation Plan scenarios test.

Joint Issues Committee – have not met

Revitalization Commission – Councilmember Lipton stated the group met in December and working on a 2020 work plan and identifying infrastructure items that might revitalize other areas. There was a presentation on Highway 42.

Xcel Energy Futures – No report

Councilmember Leh would like Council to consider creating a joint interest committee with Broomfield.

Future agenda items – none.

**ADJOURN**

Members adjourned at 8:14 pm.

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Ashley Stolzmann, Mayor

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Meredyth Muth, City Clerk